

## **REMARKS**

### ***Summary of Changes Made***

The application was filed with 15 claims. In a preliminary amendment, claims 16-23 were added. Presently, claims 1-23 are canceled, and new claims 24 - 35 are added. Accordingly, claims 24-35 (12 claims) remain pending in the application. For the convenience of the Examiner, a chart appears below correlating the subject matter of the new claims to that of the earlier claims. No new matter is added by this amendment.

<b>New Claim</b>	<b>Old Claim(s)</b>
24	1+2+6+8+12
25	1+3+6+8+13
26	1+2+6+7+8+12
27	1+3+6+7+8+13
28	1+2+6+8+9+12
29	1+3+6+8+9+13
30	8+10
31	10
32	1+2+6+8+12+14
33	1+3+6+8+13+14
34	1+2+4+16
35	1+3+4+17

***Claim Rejections – 35 U.S.C. 102 (b) – (Shiroyama)***

Claims 1-8, and 16-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Shiroyama, et al., (U.S. 6,328,982), (“Shiroyama”). Shiroyama discloses a perfume composition, provided in a controlled manner, to produce a controlled cooling effect subjectively determined by at least one person. The cool feeling composition can be used in various products, including cosmetics and colognes to impart a cooling effect. A composition disclosed by Shiroyama can also contain a warm feeling component. Figures 1-9 disclose using cooling sensation data acquired from testing and using the compositions.

All pending claims 1-23 have been canceled, thus the rejection is moot.

The new claims 24-30, 32, and 33 each contain subject matter of one of the rejected claims. However, each of those claims also contains subject matter of at least one claim not rejected hereunder, for example, claims 9, 12, or 13. Hence, claims 24-30, 32, and 33 are not subject to the instant rejection.

Claim 31 contains no subject matter of any claim rejected hereunder, hence claim 31 is unaffected by this rejection.

Based on the foregoing, Applicants respectfully submit that all pending claims, 24-35, are novel and patentable over Shiroyama.

Claims 34 contains the subject matter of original claims 1+2+4+16, while claim 35 includes the subject matter of original claims 1+2+4+16. However, Shiroyama does not relate to a process of selecting a perfume. Hence, claims 34 and 35 are patentable over Shiroyama.

***Claim Rejections – 35 U.S.C. 102 (b) – (Holt)***

Claims 1, 2 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Holt et al., U.S. 6,348,501, (“Holt”). Example 2 thereof teaches compositions that produce a warm sensation to a user’s skin. The compositions include lavender oil or lavender extract. The Examiner alleges that Applicants disclose that lavender is capable of increasing temperature sense.

All pending claims 1-23 have been canceled, thus the rejection is moot.

As noted above, all claims that include the subject matter of claims 1, 2, and 12 also include subject matter from a claim not rejected over Holt, for example, any of claims 6 - 9. The foregoing statement includes claims 24, 26, 28, and 32. Because claims 25, 27, 29-31, and 33 - 35 do not contain the subject matter of all of claims 1, 2, and 12, such claims are unaffected by this rejection. Applicants respectfully submit that all claims 24-35 are patentable over Holt.

***Claim Rejections – 35 U.S.C. 102 (b) – (Yamamoto)***

Claims 1, 3 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Yamamoto, et al., U.S. 5,663,460, (“Yamamoto”). Example 4 thereof allegedly teaches fragrance compositions that produce cooling sensations. The compositions include sandalwood oil; their fragrance properties are alleged to be inherent in the reference.

All pending claims 1-23 have been canceled, thus the rejection is moot.

New claims 25, 27, 29, and 33 contain the subject matter of all of original claims 1, 3, and 13. However, each also includes the subject matter of at least one other claim not rejected hereunder, for example any of claims 6-9. Because claims 24, 26, 28, 30-32, 34, and 35 do not contain the subject matter of all of claims 1, 3, and 13, such claims are unaffected by this rejection. Applicants respectfully submit that all claims 24-35 are patentable over Holt.

***Claim Rejections – 35 U.S.C. 102 (b) – (Wiegand)***

Claims 1, 3, 13 and 15 are rejected under 35 U.S.C 102(b) as being anticipated by Wiegand, et al., U.S. Pat. App. Pub. No. 2002/0151527, (“Wiegand”) for an alleged disclosure of a method that uses olfactory sensory experiences with relaxing fragrances. Such a method is shown to reduce stress to enable sebum reduction. Wiegand cites Librizzi, et al., U.S. App. Ser. No. 09/676,876 which is a parent of 10/218,774, now U.S. Pat. App. Pub. No. 2003/0064120, for the fragrances incorporated by reference in Wiegand. Librizzi discloses fragrances including chamomile and sandalwood, which the Examiner alleges that Applicants disclose as providing a cooling effect. Thus, the Examiner believes that the cooling properties of the chamomile and sandalwood fragrances are inherent to the reference.

All pending claims 1-23 have been canceled, thus the rejection is moot.

The situation with respect to this rejection is the same as with respect to the rejection of claims 1, 3, and 13 over Yamamoto. No new claim includes the subject matter of claim 15. Hence, Applicants respectfully submit that all claims 24-35 are patentable over Wiegand.

***Claim Rejections – 35 U.S.C. 103(a) – (Shiroyama/McCarthy)***

Claims 9 and 20-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shiroyama as applied to Claims 1-8, 13-14, 16-19 above, in view of McCarthy, U.S. 4,603,030, (“McCarthy”). The Examiner contends that Shiroyama discloses a perfume composition provided in a controlled manner, to produce a controlled cooling effect subjectively determined, by at least one person, where the cool feeling composition can be used in various products including cosmetics and colognes to impart a cooling effect, and where such a composition disclosed by Shiroyama can also contain a warm feeling component, presented via images, or charts, are shown by Shiroyama using cooling sensation data acquired from test subjects. The Examiner admits that Shiroyama fails to disclose a method regarding uses within a certain space, as specified in instant Claims 9 and 20-23.

Accordingly, the Examiner cites McCarthy for an alleged teaching of a controlled method for providing “one or more desired scents” into certain theater seat spaces referred to as “units”. Thus, the Examiner concludes, it would have been obvious to modify the motivating teachings of producing perfume-induced temperature sensations, disclosed by Shiroyama along with McCarthy’s method of providing desired scents in theaters to yield predictable results that would combine a method of providing a temperature sense composition into the certain space occupied by a viewer while watching a movie. Therefore, Claims 9 and 20-23 are rejected.

Applicants first request clarification from the Examiner on the following. Shiroyama is cited to reject only claims 1-8, and 16-19. However, the present rejection refers to the citation of Shiroyama as applied to claims 1-8, 13-14, 16-19 above. Clarification as to the application of Shiroyama to claims 13 and 14 is respectfully requested.

All pending claims 1-23 have been canceled, thus the rejection is moot.

The subject matter of claim 9 is found only in new claims 28 and 29. Each of these claims also includes the subject matter of at least one other claim not rejected hereunder, for

example at least one of claims 1, 2, 3, 6, 8, 12, and 13. Hence, claims 28 and 29 are patentable over the combination of Shiroyama and McCarthy. The remaining claims, 24-27 and 30-35 are unaffected by this rejection. Hence, Applicants respectfully submit that all claims 24-35 are patentable over Shiroyama and McCarthy.

***Claim Rejections – 35 U.S.C. 103(a) – (Shiroyama/ Nerushai)***

Claims 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shiroyama in view of Nerushai, et al., U.S. 6,233,912, (“Nerushai”). Although Shiroyama disclose a perfume compositions providing temperature sensations in a controlled manner to users and evaluators, the Examiner admits that Shiroyama fails to do so in regard to a type of map with labeled X and Y axes that would be describe values for rows and columns on a grid.

Accordingly, the examiner cites Nerushai for an alleged disclosure of a “liquid product map” that is used for perfumes containing labeled columns and rows; the perfume map provides users a manner in which to identify the extremities, or internal ranges within the extremities, by an accompanying numerical grid associated with a perfume composition’s position on the map. Examples of labeling for the row and column map include spanning directions from “hot” to “cold”. Nerushai allegedly motivates the skilled artisan to describe perfumes, in regard to physical, thermal, or feeling sensations, in more than one manner or direction. The Examiner believes that the success of Shiroyama’s teachings providing perfumes giving different sensations, along with the suggestive teachings of Nerushai providing maps for perfumes using rows and columns, or descriptive axes “obviously similar to X and Y axes,” would have made it obvious to describe preferred perfume attributes or sensation properties--including those of hotter (warmer) to colder (cooler) of instant claims 10 and 11.

All pending claims 1-23 have been canceled, thus the rejection is moot. The subject matter of claim 11 is nowhere reproduced in the new claims. New claim 30 contains the subject matter of original claim 10, however it also includes the subject matter of claim 8, not rejected hereunder. Hence, claim 30 is patentable over Shiroyama in view of Nerushai. Claim 31 includes the subject matter of claim 10 alone.

Claims 30 and 31 are patentable over the combination of Shiroyama in view of Nerushai for the following additional reasons. Nerushai is utterly unrelated to Shiroyama or to the instantly claimed invention. Nerushai relates to shelving, and display units for the presentation of retail goods in a retail store. Shiroyama fails to disclose a method of selecting a perfume.

In each of claims 30 and 31, limitation (b) correlates (1) the temperature sense of a cosmetic and (2) the skin feel of the cosmetic. In limitation (c), the correlation is among (1) the temperature sense of a cosmetic, (2) the skin feel of the cosmetic, and (3) the image of the aroma.

This correlation is described in paragraphs [0032] and [0049], Table 3, and Figure 4. The image of the aroma is described by Natural, Tender, Sharp, and Rich, while Skin feel is described by Light-spreading, Heavy-spreading, Fresh and Moist.

None of these parameters, nor their correlations are taught or suggested by the combined teachings of Shiroyama and Nerushai.

The combination of Shiroyama and Nerushai thus fails to disclose or suggest all of the limitations of claims 30 and 31.

## **CONCLUSION**

Based on the foregoing, the Applicants respectfully request entry of the instant amendment and a Notice of Allowability for claims 24-35. If there are any additional fees resulting from this communication, please charge the same to our Deposit Account No. 18-0160, our Order No. TAK-18150.

Respectfully submitted,

**RANKIN, HILL & CLARK LLP**

\ Christopher J. Korff \  
Kenneth A. Clark, Reg. No. 32,119  
Christopher J. Korff, Reg. No. 55,342

925 Euclid Avenue, Suite 700  
Cleveland, Ohio 44115-1405  
(216) 566-9700  
docketing@rankinhill.com